

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically at the time and date indicated, which may be materially different from its entry on the record.



Dated: 03:57 PM June 4, 2019



Russ Kendig
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:) CHAPTER 7
)
SANDRA CATHERINE POSTIY,) CASE NO. 18-62489
)
Debtor.) JUDGE RUSS KENDIG
)
) **MEMORANDUM OF OPINION**
) **(NOT FOR PUBLICATION)**

This case is before the court on its Notice of Intent to Dismiss. A response was filed by the deceased Debtor's daughter.

The court has subject matter jurisdiction of this case under 28 U.S.C. § 1334 and the general order of reference issued by the United States District Court for the Northern District of Ohio. General Order 2012-7. The court has authority to enter final orders in this matter. Pursuant to 11 U.S.C. § 1409, venue in this court is proper.

This opinion is not intended for publication or citation. The availability of this opinion, in electronic or printed form, is not the result of a direct submission by the court.

BACKGROUND

Debtor Sandra Catherine Postiy filed a chapter 7 case on December 14, 2018. The 341 meeting of creditors was scheduled for February 12, 2019. Debtor passed away on or about January 31, 2019, prior to attending a 341 meeting of creditors. On February 26, 2019, the

chapter 7 trustee conducted a 341 meeting. The trustee concluded the meeting and issued a “no asset” report on February 27, 2019.

The docket did not indicate who appeared for Debtor at the 341 meeting. The court issued an order on April 17, 2019 requesting an explanation. The trustee responded on April 18, 2018, advising that Debtor’s daughters, Anita Volpe and Tracy Shankle, appeared at the 341 meeting. The court thereafter issued a Notice of Intent to Dismiss the case, noting the lack of authority for either daughter to appear for Debtor. In response, Anita Volpe objected to dismissal, stating that she had a power of attorney. She attached two documents, a special power of attorney and a general power of attorney.

DISCUSSION

Ignoring any questions of standing or other technical considerations, the court will address the argument presented. Debtor’s daughter, Anita Volpe, contends that she was authorized to appear at the 341 meeting by virtue of the powers of attorney executed by her mother on August 25, 2018. This is incorrect. “It has long been held that the death of a party revokes a power of attorney given by that party.” In re Scott, 111 Ohio App.3d 273, 275 (Ohio 6th Dist. App. 1996) (citing McDonald v. Black’s Admr., (1851), 20 Ohio 185, syllabus). The authority under the powers of attorney presented by Ms. Volpe terminated when her mother passed, leaving her without legal authority to represent her mother.

This does not mean there is no method of addressing the decedent’s debt. The state probate court is an available forum that daily handles these types of matters.

The objection to dismissal is overruled. A dismissal order will be issued immediately.

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